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OPINION NUMBER 99-1

DATE: April 15, 1999

SUBJECT: George Loveland, Deputy City Manager

REQUESTED BY: City Attorney

PREPARED BY: Application of Charter Sections 90.1 and 90.2 to Loan Contracts Otherwise Allowed by Law

QUESTION PRESENTED

Do San Diego City Charter [Charter] sections 90.1 and 90.2 prohibit the City of San Diego [City] from entering into loan contracts for improvements to the City's waterworks and sewer systems without a vote of the electorate where the indebtedness is not otherwise prohibited by law?

SHORT ANSWER

No. Charter sections 90.1 and 90.2 require a vote of the electorate for the City to issue "revenue bonds" for the waterworks and sewer systems. The term "revenue bond" has a particular meaning as used in the Charter, and the sections do not prohibit the City from accepting loans where the indebtedness is not otherwise prohibited by law. In this particular case, the City may thus enter into a modified contract with the State of California for a no-interest State Revolving Fund loan.

BACKGROUND

The City of San Diego has applied to the State Water Resources Control Board [Board] to receive approximately \$86.557 million in zero-interest State Revolving Fund [SRF] loans for five projects expressly selected to upgrade the City's sewer (or wastewater treatment) system.¹ The Board administers and allocates funds received under the federal Clean Water Act (33 U.S.C.A. § 1251 - 1386) and has established the State Water Pollution Control Revolving Fund, also known as the SRF, (California Water Code § 13475 – 13485) to govern the use of such funds.

In accordance with the State's rules, municipal sewer agencies apply for zero-interest loans to be repaid in full within twenty years after completion of an approved project. The terms and conditions for use and repayment of the funds are contained in a standard "loan program contract" [Standard Contract] used by the Board to standardize the administration of the program.

In 1992, the Metropolitan Wastewater Department [Department] (previously known as the Clean Water Program) asked the City Attorney's Office what legal restrictions the City had in qualifying for receipt of SRF funds. The Office issued a Memorandum of Law, dated October 19, 1992, and enclosed as Attachment A, analyzing various state constitutional and general Charter restrictions. In that Memorandum, the Office concluded that general debt limitations contained in the state constitution and Charter would not preclude acceptance of SRF funds "if the [City's] Sewer Revenue Fund is identified in the [Standard Contract] as the *exclusive* source of funds for repayment." Attachment A at p. 7 (emphasis added). The identification of such exclusive repayment source makes applicable the concept known as the "special fund" doctrine, which makes inapplicable the general debt limitation provisions of the state constitution and Charter. *See generally* Attachment A at pp. 4-6.

Subsequently, \$1,165,410,000 in Sewer Revenue Bonds were issued by the Public Facilities Finance Authority of the City [PFFA] in various series to finance necessary sewer upgrades.² These bonds were issued using an installment purchase agreement between PFFA and the City, as authorized by Charter section 99. *See* Attachment B. In addition to the funds received from the issuance of the revenue bonds, the City was still interested in pursuing the SRF loan, if possible, as an additional source of funds to assist in the massive capital improvement project underway. In the course of advising on the revenue bond issuances, however, the City's private financial advisors, Public Resources Advisory Group [PRAG], and its bond counsel, Orrick, Herrington & Sutcliffe [Orrick], reexamined the Standard Contract and raised questions

¹ The obvious benefit of this loan program is that the loans are, as indicated, zero interest loans. Such a loan in the amount applied for would save the City more than \$29 million over the life of the loan, as compared to the City's estimated cost of funds (5.5%).

² PFFA is a lawfully composed body authorized to issue various forms of indebtedness, such as lease-revenue bonds. *City of San Diego v. Rider*, 47 Cal. App. 4th 1473, 1478-79, 1480-81, n.7 (1996). Because of its nature, restrictions on the issuance of debt and bonds in the Charter and state constitution, and in particular Charter sections 90 and 90.2, are not applicable to PFFA. *Id.*

as to whether the terms of the Standard contract conflicted with covenants applicable to the Sewer Revenue Bond issuances, or debt limitation issues imposed by the Charter.

To resolve the issues raised by PRAG and Orrick, the City proposed to substitute an installment purchase agreement, involving certificates of participation [COPs] representing an undivided interest in installment payments from the Sewer Revenue Fund, for the Standard Contract. This proposal was made by the City's bond counsel as a compromise to the State's Standard Contract provisions and to defer consideration of whether the Charter conflicts with the Standard Contract. In a response to the Board, dated December 10, 1998, and enclosed as Attachment C, discussing the merits of the proposal, the City correctly pointed out that: [t]he City's Charter prohibits it from borrowing from the [Board] using the standard SRF Loan Contract without voter approval." Attachment C at p. 1.

On January 21, 1999, the Board considered the City's request for a substitute agreement involving COPs but declined to proceed under that type of agreement. It did, however, indicate a willingness to modify the Standard Contract to provide that all repayments be made solely from net system revenues of the Sewer Revenue Fund and to subordinate the state loan amounts to the existing revenue bonds.

A subsequent issue has arisen, however, one not previously analyzed by this Office. Charter sections 90.1 and 90.2 require a vote of the electorate for the City to issue "revenue bonds" for the purpose of raising funds for capital projects for the waterworks or sewer systems. The issue addressed in this Opinion is whether the SRF loan would be considered a "revenue bond" for purposes of those sections, prohibiting the City from accepting such a loan without a vote of the electorate.³

³ The conclusion set forth in this Opinion does not contradict the statement set forth in Attachment C, regarding the necessity for voter approval. The context of the statement in Attachment C was the general restriction on indebtedness, and corresponding voter approval requirement, contained in the state constitution and Charter. Those issues are addressed in Attachment A. The conclusion set forth in this Opinion supplements the analysis set forth in both Attachments A and C.

ANALYSIS

I

A MODIFIED STANDARD CONTRACT WOULD NOT VIOLATE GENERAL MUNICIPAL DEBT LIMITATIONS

With respect to the general debt limitation provisions of California Constitution, article XI, section 18; and Charter section 90, we reaffirm our analysis and conclusion stated in the Memorandum of Law enclosed as Attachment A. In brief, that analysis concluded that a loan subject to repayment solely from the net revenues of the City's Sewer Revenue Fund (the "special fund" doctrine), and subordinate to the bonds previously issued by PFFA, would not violate those statutory provisions. The Board's Standard Contract, if modified as set forth above and in Attachment A, would not run afoul of these two provisions for those reasons. *See also* Footnote 3. Although, as this Opinion concludes, the modified Standard Contract need not be approved by the electorate, it must be adopted pursuant to the provisions of Charter section 99, relating to long term contracts, and which requires an ordinance and two-thirds vote of the Council.

II

CHARTER SECTIONS 90.1 AND 90.2 DO NOT REQUIRE A VOTE OF THE ELECTORATE FOR THE CITY TO ACCEPT LOANS SUCH AS THE STATE REVOLVING FUND LOAN

A. Applicable Rules of Statutory Construction.

This analysis involves the interpretation of statutes, in particular certain provisions of the Charter. A review of the law regarding the application and interpretation of city charters is thus appropriate.

A charter city, such as San Diego, has all powers over municipal affairs, otherwise lawfully exercised, subject only to the clear and explicit limitations and restrictions contained in the charter itself. Cal. Const., art. XI, § 5(a); *City of Grass Valley v. Walkinshaw*, 34 Cal. 2d 595, 598 (1949).

The charter operates not as a grant of power but as an instrument of limitation and restriction on the exercise of power over all municipal affairs which the city is assumed to possess; and the enumeration of powers does not constitute an exclusion or limitation. . . . [T]he exercise of . . . power . . . [is favored] against the existence of any limitation or restriction thereon which is not expressly stated in the charter. . . . So guided, reason dictates that the full exercise of the power is

permitted except as clearly and explicitly curtailed. Thus, in construing the city's charter as restriction on the exercise of municipal power may not be implied.”

Id. at 598-599; *see also City of Santa Monica v. Grubb*, 245 Cal. App. 2d 718, 724 (1966). “A city charter is [thus] construed to permit the exercise of all powers not expressly limited by the charter or by superior state or federal law.” *Taylor v. Crane*, 24 Cal. 3d 442, 450 (1979); *see also City of Redondo Beach v. Taxpayers, Property Owners, etc.*, 54 Cal. 2d 126, 137 (1960), citing *West Coast Advertising Co. v. City and County of San Francisco*, 14 Cal. 2d 516, 522 (1939); *City of Santa Monica*, 245 Cal. App. 2d at 724.

As to such superior state law: “A charter city is constitutionally entitled to exercise exclusive authority over all matter deemed to be 'municipal affairs.' . . . In such cases, the city charter supersedes conflicting state law.” *DeVita v. County of Napa*, 9 Cal. 4th 763, 783 (1995) (citations omitted). While the term “municipal affair” has no exact definition, bond issuances for municipal purposes are “clearly” municipal affairs within the meaning of the doctrine. *City of Redondo Beach*, 54 Cal. 2d at 137, citing *City of Grass Valley*, 34 Cal. 2d at 599-600; *City of Santa Monica*, 245 Cal. App. 2d at 724. Also, “the manner in which a city is empowered to form a contract is generally a 'municipal affair' which can be controlled by the terms of its charter. . . . Thus if a city charter specifies the manner in which that city may enter into a contract, the terms of the charter control over otherwise applicable state law.” *FSPP v. City of Los Angeles*, 65 Cal. App. 4th 650, 661 (1998) (citations omitted).

Regarding the interpretation of charters:

Even though the provisions of a city charter displace state statutes which would otherwise be applicable to municipal affairs, “[t]he provisions of a charter are the law of the State and have the force and effect of legislative enactments.” (Cal. Const., art. XI, § 3(a).) As laws of the state, charter provisions are interpreted according to the normal rules of statutory construction. . . . In construing a charter, the objective is to determine the legislative intent, and the prime determinant is the plain meaning of the language of the charter. “Where the words of the charter are clear, we may not add to or alter them to accomplish a purpose that does not appear on the face of the charter or from its legislative history.” [*Domar Electric, Inc. v. City of Los Angeles*, 9 Cal. 4th 161, 172 (1994).]

FSPP, 65 Cal. App. 4th at 633-634.

“Significance, if possible, should be attributed to every word, phrase, sentence and part of an act in pursuance of the legislative purpose, . . .” *DeYoung v. City of San Diego*, 147 Cal. App. 3d 11, 18 (1983). A specific intent controls a general intent if the two conflict. Cal. Code

Civ. Proc. § 1859; Cal. Civ. Code § 3534. With these principles in mind, we turn to the Charter language at issue.

B. The Term “Revenue Bond” Has a Specific Meaning in Sections 90.1 and 90.2, Which Does Not Include a Loan Such as the SRF Loan.

Charter sections 90.1 and 90.2 set forth comprehensive procedures for the issuance of “revenue bonds” to raise funds for improvements to the City's waterworks and sewer systems, respectively. Originally added to the Charter in 1955 and 1957, respectively, the language used in the sections to describe “revenue bonds” is important because it reflects what the drafters and electors had in mind when the sections were adopted. In relevant part here, section 90.2 provides⁴:

[Definitions]

....

“Bond” or “bonds” mean sewer revenue bonds issued hereunder payable from the Sewer Revenue Fund.

....

Subsection 1. Revenue bonds may be issued as provided in this section

Subsection 2. . . . [T]he Council is hereby authorized to issue, . . . revenue bonds in total principal amount not to exceed \$42,500,000. . . . Revenue bonds, if any, issued under this section in excess of . . . \$42,500,000 shall be authorized by proceedings taken in the manner hereinafter provided under Subsection 3.

Subsection 3. . . . The Council, . . . shall submit to the qualified voters of the City at an election held for that purpose the question of issuing revenue bonds pursuant to this section

Subsection 4. The Council may issue all bonds authorized at an election in one issue or in two or more series and may fix different dates and maturities for the bonds of each series. . . . The bonds of any issue or series issued under this section may be serial bonds or term bonds or any combination thereof with such maturities as may be determined by the Council, but no bond shall run more than 40 years from its date. . . .

⁴ In all relevant aspects, sections 90.1 and 90.2 are identical. Because of the nature of the question presented, this Opinion focuses on section 90.2 and the sewer or wastewater system. The conclusion reached in this Opinion, however, is equally applicable to section 90.1.

Said bonds shall be issued in negotiable form and shall be negotiable. . . .

Subdivision A. REVENUE BONDS - TERMS AND CONDITION [sic]: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the terms and conditions thereof . . . including . . . any or all of the following:

(1) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, . . . the form of said bonds . . . and of interest coupons pertaining thereto, . . . and the manual . . . and facsimile signatures to be affixed to said bonds . . . and the facsimile signature to be affixed to interest coupons;

Subsection 5. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:

. . . .

(c) Said bonds shall be sold only at public sale Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds,

(d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. . . .

As discussed above, the seminal issue presented in this matter is the meaning of the term “revenue bond” as used in the Charter. Numerous definitions of “revenue bond” or “bond” exist in state law. *See, e.g.*, Cal. Gov't Code §§ 5401, 5601, 53570(b), 53892.2. Such definitions are very broad, and could be interpreted to apply to any form of indebtedness of a municipality, including loan contracts.⁵ However, such definitions are not controlling on the meaning of the Charter sections. *See* Part II.A, above. We must look to the plain language of the Charter, and any available legislative history, to discern the meaning of the term.

The plain language of the Charter section appears to have a limited meaning. The Charter speaks in terms of “issuance” of revenue bonds; “denominations” of the bonds; “series” of bonds; “maturities;” “negotiable form;” interest coupons; signatures affixed to the bonds and interest coupons; “par” value; public sale; and bidders for the bonds. These concepts do not

⁵ For example, Government Code section 53570(b) states in relevant part: “Revenue bonds' means any of the following: (1) Bonds, warrants, notes, or other evidence of indebtedness of a local agency payable from funds other than the proceeds of ad valorem taxes

appear applicable to loan contracts, but more clearly attach to what might be called “traditional bonds.” A bond is defined in *Webster's Ninth New Collegiate Dictionary* as “(c) an interest-bearing certificate of public or private indebtedness + a 20-year ~ issue to finance a new courthouse,.” *Id.* at p. 166 (1988). A loan, on the other hand, is described as “money lent at interest;” “lend” being defined, in part, as “to let out (money) for temporary use on condition of repayment with interest.” *Id.* at 684, 700. The former seems relevant to the Charter sections, not the latter.

What legislative history exists for the Charter sections appears to confirm this interpretation. As adopted in 1956 as Proposition C (effective in 1957), section 90.2 did not contain an authorization for the Council to issue any revenue bonds. *See* Attachment D. An amendment in 1960, Proposition A (effective in 1961), authorized the Council to issue up to \$42.5 million in revenue bonds (see subsection 2, above). *See* Attachment E. No legislative history for the original charter amendment exists, but an “Argument for Proposition A,” authorizing the bond issuance by the Council, was printed in the sample ballot for that election. *See* Attachment F. It speaks in terms of a “revenue bond issue,” and also speaks of “financial plans for retiring the bonds,” and “complete retirement of the revenue bond issue.” Again, these concepts appear relevant to a more traditional bond issuance.

Other language in the Charter also supports a conclusion that the term “revenue bond” in the Charter sections has a specific meaning. Certain provisions of the Charter detail limitations on all types of liabilities, including loans. For example, section 74, relating to certain necessary appropriations, refers broadly to “the debt” of the City. Similarly, section 80, relating to money required to be in the treasury to pay liabilities, refers to a “contract, agreement, or other obligation, involving the expenditure of money” Also, section 99, the City's equivalent to the debt limitation in the state constitution, refers to “any indebtedness or liability in any manner” Thus, the Charter provides for broad limitations in certain circumstances. We must assume that if the drafters of the sections and the electorate intended for the sections to have broad applicability, the language would have been appropriately broad, as in other Charter sections. That it is not is indicative of the intent of the voters that a specific meaning apply.⁶ *Cf. People v. Overstreet*, 42 Cal. 3d 891, 897 (1986) (legislature is presumed to be aware of existing laws and to have enacted amendments or changes in light of such existing laws).

Using the principles of statutory construction set forth above, one must conclude that the drafters of the sections and the electorate had in mind the more traditional “bond” rather than any other form of indebtedness or liability. The language and context of the references in the Charter sections are more specific and narrow than other sections of the Charter that refer to “indebtedness” or “liability.” Additionally, we must remember that a charter is basically a

⁶ By contrast, long term contractual obligations, such as the SRF loan, receive heightened scrutiny under section 99, which requires an ordinance and a super-majority two-thirds vote of the Council. This process ensures that such long term contractual liabilities will still be carefully considered by the legislative body.

document of limitation, and restrictions on the exercise of power may not be implied if not explicitly set forth. *See* Part II.A, above. Sections 90.1 and 90.2 do not proscribe any other lawful forms of financing for sewer and water improvements, they merely prescribe the form of a particular type of financing. Thus construed, and in light of the language and context of the entire Charter, we conclude that the term “revenue bond” as used in Sections 90.1 and 90.2 refers to a traditional form of “bond” but does not apply to other forms of indebtedness, such as loan contracts.

CONCLUSION

The term “revenue bond” as used in Charter sections 90.1 and 90.2 has a narrow, particular meaning, not the broad, general meaning set forth in various state laws. As used in the Charter sections, the term means traditional bonds; negotiable certificates, with coupon, purchased through public competitive bidding and evidencing a particular form of debt. Accordingly, the Charter sections are not applicable to a loan contract, such as the SRF Standard Contract, and the City may enter into such contracts without a vote of the electorate, provided all

George Loveland, Deputy City
Manager

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other provisions of the Charter are satisfied, and the contracts are written so as to avoid general constitutional and Charter debt limitations.

Respectfully submitted,

CASEY GWINN
City Attorney

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Attachments A-F
LO-99-1

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MEMORANDUM OF LAW

DATE: October 19, 1992
TO: Richard Enriquez, Clean Water Program, Grants Administrator
FROM: City Attorney
SUBJECT: State Revolving Loan Fund and Debt Limitations

By memorandum dated September 12, 1992, you raised two questions regarding a revolving loan fund program offered by the State Water Resources Control Board ("Board") to assist wastewater discharge permit holders in financing construction of treatment facilities. Included as factual background was a copy of the Board's policy manual ("policy") which itself contained a sample loan agreement form ("loan terms") as an appendix. The policy basically incorporates funding requirements of the Environmental Protection Agency as set forth in the Code of Federal Regulations. In conversations regarding this subject, you have informed us that up to \$20 million in loan proceeds may be available to the City through this program, and the loans may be amortized over a period of up to 20 years. Interest rates would be favorable as compared to prevailing commercial rates.

QUESTIONS

1. Based on San Diego City Charter section 80, can the City enter into a loan agreement with the state?
2. What amounts would have to be initially encumbered through the budget process, i.e., the full amount of the loan or just the amount required for repayment within the year the payment is due?

Mr. Enriquez

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October 19, 1992

ANALYSIS

Although your first question references Charter section 80, the concern for municipal debt limitations more properly implicates Charter section 99 and California Constitution Article XI, section 18. Charter section 80 addresses the yearly appropriations of the City Council, and provides in substance that contracts, agreements, or other obligations involving expenditures for any one fiscal year may not be entered unless the City Auditor has first certified that the money required for the entire obligation is in the treasury to the credit of the appropriation from which it is to be drawn. In essence, this means that before any agreement is entered, the Auditor must certify that not only has the City Council made an appropriation for that entire agreement, but that the money has been actually encumbered for the purpose of funding it. While not entirely irrelevant to your questions, the provisions of Charter section 80 apply only incidentally to the debt limitation provisions of the state Constitution and Charter section 99.

Charter section 99 is a very close reflection of the debt limitation provisions of California Constitution Article XI, section 18. Since the two laws are nearly identical in language, purpose, and effect, we refer here only to the content of Charter section 99, as the analysis would be the same for the Constitutional provision. Charter section 99 states:

SECTION 99. CONTINUING CONTRACTS

The City shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year unless the qualified electors of the City, voting at an election to be held for that purpose, have indicated their assent as then required by the Constitution of the State of California, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same; provided, however, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same

election, the votes cast for and against each proposition shall be counted separately, and when the qualified electors of the City, voting at an election for that purpose have indicated their assent as then required by the Constitution of the State of California, such proposition shall be deemed adopted. No contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds majority vote of the members elected to the Council after holding a public hearing which has been duly noticed in the official City newspaper at least ten days in advance.

As is evident, this Charter section is intended to regulate the incurrence of long term continuing indebtedness. And the Constitutional provision upon which it is modeled likewise was enacted to prevent improvident creation of inordinate debts that might be charged against taxpayers, and to ensure that taxpayers have the opportunity to express their approval or disapproval of a long term indebtedness. Lagiss v. County of Contra Costa, 223 Cal. App. 2d 77, 85 (1963); Redondo Beach v. Taxpayers, Property Owners, Citizens and Electors, 54 Cal. 2d 126, 131 (1960). It means that indebtedness cannot be lawfully incurred (except in the manner provided, i.e., election with supermajority vote) which exceeds in any one year the revenue actually received by the City for that year. Each year's income must pay each year's liability, and no part of such liability may be paid out of the income of any future year. San Francisco Gas Co. v. Brickwedel, 62 Cal. 641, 642 (1882); Higgins v. City of San Diego, 131 Cal. 294, 298 (1901); Fresno Canal and Irrigation Co. v. McKenzie, 135 Cal. 497, 500-501 (1902).

These principles will apply to general fund loan contract obligations. Thus, when a loan obligating the general fund is contracted, the City as borrower incurs a present obligation to make future payments, and the result is the seemingly anomalous requirement that all money required to meet that liability must be within the year's income, unless an exception to the debt limitation law fits the situation at issue. The anomaly exists because a long term loan contract is an unusual type of contract for a municipality to enter, for long term municipal financing has more commonly been accomplished through other security arrangements (bonds) governed by distinct Charter provisions or general law. Still, a loan contract is nonetheless a contract, and the debt limitation laws must therefore be considered as to whether exception applies.

Turning to the Board's policy and the loan terms which are the basis of your questions, we believe that an exception does indeed apply. The Board's policy calls for the development of a Revenue Program in section VII.C. (more thoroughly described in Appendix C), which is to be based upon a sewer use ordinance. It states in pertinent part that . . .

the loan recipient will be required to demonstrate, at the time of the actual loan application [at the approval to award stage] that a "dedicated" source of revenue is available to repay the loan. Revenue will be considered dedicated when the local community passes an ordinance or a resolution committing a source or sources of funds for repayment.

The Revenue Program Guidelines contemplate a "system of charges based on actual use." It thus clearly appears that what is intended as the revenue source are revenues derived from sewer users.¹ San Diego Municipal Code ("SDMC") section 64.0403 provides for a Sewer Revenue Fund for paying for development, construction, operation, and maintenance of sewerage facilities, as well as for funding of revenue bonds issued according to Charter section 90.2. This Sewer Revenue Fund is to be distinguished from the City's General Fund, as it is a special fund with a specifically limited purpose, and its assets are derived entirely from pursuit of that purpose.

The constitutional debt limitation (and hence the Charter debt limitation) is generally inapplicable where indebtedness in excess of ordinary annual revenue is to be paid out of a special fund. Shelton v. City of Los Angeles, 206 Cal. 544, 551-52 (1929); Department of Water and Power v. Vroman, 218 Cal. 206, 217-20 (1933); City of Oxnard v. Dale, 45 Cal. 2d 729, 733-37 (1955); City of Walnut Creek v. Silveira, 47 Cal. 2d 804, 813 (1957); City of Palm Springs v. Ringwald, 52 Cal. 2d 620, 624 (1959).

¹The Guidelines also make provision for a municipality's dedication to ad valorem property taxation as a supplemental aspect of the Revenue Program, but this appears to be only incidental and optional. In our City's case, sewer revenues are based entirely on use, and this is generally what the Guidelines require. This discussion will therefore assume that taxation will not be an element of the expected Revenue Program.

We therefore believe that if, as the loan terms generally imply, the Sewer Revenue Fund is to be the exclusive source of revenue for repayment of the loan, the loan would fall within a recognized exception to the debt limitation provisions of the state Constitution and City Charter. Thus, regarding Charter section 80, the City Auditor would be in lawful position to certify partial payments to be made from annual appropriations of the City Council, and the Council would be in lawful position to make such periodic appropriations from the special Sewer Revenue Fund notwithstanding the limitation provisions of Charter section 99. Under Charter section 99, the only remaining stricture would be the necessity of a two thirds affirmative vote of the City Council to approve a loan contract which exceeds five years.

However, the City must make further considerations where the Sewer Revenue Fund is pledged as the sole source for repayment of the loan. This is because that same Sewer Revenue Fund has been pledged, and likely will be pledged in the near future, as the revenue source for redemption of Sewer Revenue Bonds issued pursuant to Charter section 90.2. Specifically, a concern arises for covenants made on bonds previously issued (1961 Bonds and 1966 Series A and Series B Bonds, as reported in the 1991 Annual Financial Report of the Water Utilities Department). An examination of the covenants for the 1966 Series A bonds discloses the following provision:

Covenant 11. Limits on Additional Debt.
The City covenants that (except for bonds issued to refund revenue bonds payable out of the Sewer Revenue Fund) no additional indebtedness evidenced by revenue bonds, revenue notes or other similar evidences of indebtedness payable out of the Sewer Revenue Fund and ranking on a parity with these bonds shall be created or incurred unless:

[Two conditions are next set forth in the covenant, which due to verbosity we include as Attachment A. Those conditions may be generally summarized as follows:
1) All payments of principal and interest must be current and no late payments recorded; likewise for payments into the Bond Service Fund and Reserve Fund. 2) The sewerage system revenue accounts must have been independently audited within the year preceding incurrence of the new debt, and that accounting of revenue must amount to at least 1.3 times the maximum amount of annual debt service on all indebtedness that will be outstanding following incurrence of the new

debt. For purposes of the accounting, two allowances for expected revenue are permitted to be added to actual revenue in applicable circumstances at the City's option, these allowances being equal to three-fourths of the estimated additional revenue that could have been expected a) from charges related to new improvements to the sewer system, and/or, b) from service charge rate increases, where such charges are imposed prior to the incurrence of the new debt but were not imposed during the full accounting year upon which the revenue calculation is based.]

Similar covenants are contained in the 1961 and 1966 Series B bonds. The significance of this bond covenant to the prospect of obtaining a \$20 million loan from the state is this: No indebtedness may be incurred on a parity with the previously issued bonds unless the aforementioned financial conditions are satisfied. Thus, absent fulfillment of those conditions, the state loan would by express terms have to recognize the priority of the bonds, and the Board would have to agree to be a creditor of second priority to the bondholders. The alternative would be to meet the conditions of the bond covenant by performing the necessary independent financial analyses and obtaining a conclusion that annual revenues will equal or exceed 1.3 times total annual debt service for all Sewer Fund obligations, including the state loan.

Aside from the bonds which have already been issued, the prospect of obtaining the state loan also raises questions regarding prospective future bond issues. The integrity of the Sewer Revenue Fund provides the basis upon which those future bonds will be rated and sold to investors, and a collateral obligation on a loan conceivably could affect the cost and terms of financing those bonds. Although the interest rate on the state loan may be a fraction of that prevailing generally in the market, this cost incentive might be offset with corresponding increases in the cost of servicing bond debt. Our conclusions in this respect are purely theoretic, and bond counselors and financial advisors likely will be in a better position to give more particularized advice on the financial implications of these state loans. As state and federal grant programs are appearing to be supplanted by loan programs requiring municipalities to repay the funds, municipalities must evaluate how this trend will affect the more traditional methods of financing -- i.e., bonds -- and determine whether the loans are in their best interest. This evaluation ideally will require the advice of bond counsel and financial advisors, and it may well be that the loans are an excellent avenue of financing. Our point here is

Mr. Enriquez

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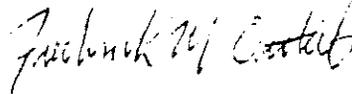
October 19, 1992

simply to suggest that the option of entering the state loans should be figured into the comprehensive programmatic financial plans of the sewerage utility, especially as to how this will impact other facets of the financial plans.

CONCLUSION

No debt limitation provision would preclude the City from executing the loan agreement with the state if the Sewer Revenue Fund is identified in that agreement as the exclusive source of funds for repayment. However, a pledge of the Sewer Revenue Fund on a loan agreement would implicate covenants in previously issued bonds, and might derogate marketability of future bonds. It is recommended that the plan to enter the state loan be thoroughly discussed with bond counsel and financial advisors.

JOHN W. WITT, City Attorney



By

Frederick M. Ortlieb
Deputy City Attorney

FMO:lc:mb:452.5(x043.2)
Attachment
ML-92-98

ATTACHMENT A

and the Reserve Fund have been made, all in conformity with this Ordinance, and

Second: The net revenues of the sewer system as shown by the books of the City for the latest fiscal year or the last completed 12 month period ended prior to the incurring of such additional indebtedness with respect to which such books have been examined and reported upon by an independent certified public accountant or firm of certified public accountants employed by the City, plus, at the option of the City either or both of the items hereinafter in this Covenant 11 designated (a) and (b) shall have amounted to at least 1.30 times the maximum amount of annual debt service on all such indebtedness to be outstanding immediately subsequent to the incurring of such additional indebtedness.

The items either or both of which may be added to the net revenues of the sewer system for the purpose of applying the restriction contained in this Covenant 11 are the following:

(a) An allowance for any estimated increase in such net revenues from any revenue producing additions to or improvements or extensions of the sewer system which have been made but which, during all or any part of such fiscal year, or last completed 12 month period, as the case may be, were not in service and from any such additions, improvements or extensions to be made with the proceeds of such additional indebtedness or with the proceeds of bonds previously issued, all in an amount equal to 75% of the estimated additional average annual net revenues of the sewer system to be derived from such additions, improvements and extensions for the first 36 month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified independent engineer employed by the City.

(b) An allowance for estimated increases in such net revenues arising from any increase in sewer service charges which has become effective prior to the incurring of such additional indebtedness but which, during all or any part of such fiscal year, or last completed 12 month period, as the case may be, was not in effect, in an amount equal to 75% of the amount by which the net revenues of the sewer system would have been increased if such increase in sewer service charges had been in effect during the whole of such fiscal year, or last completed 12 month period, as the case may be, as shown by the certificate or opinion of a qualified independent engineer employed by the City.

Covenant 11. Limits on Additional Debt. The City covenants that (except for bonds issued to refund revenue bonds payable out of the Sewer Revenue Fund) no additional indebtedness evidenced by revenue bonds, revenue notes or other similar evidences of indebtedness payable out of the Sewer Revenue Fund and ranking on a parity with these bonds shall be created or incurred unless:
First: That the principal of and interest on the bonds issued hereunder have been paid as the same became due; and that payments into the Bond Service Fund

Orrick, Herrington & Sutcliffe LLP
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 Suite 3200
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 505 Montgomery
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 San Francisco, California 94111

March 6, 1997

Public Facilities Financing Authority
 of the City of San Diego
 202 C Street
 San Diego, California 92101

City of San Diego
 202 C Street
 San Diego, California 92101

Public Facilities Financing Authority
 of the City of San Diego
 Sewer Revenue Bonds, Series 1997A and Series 1997B
 (Payable Solely from Installment Payments
Secured by Wastewater System Net Revenues)
 (Final Opinion)

Ladies and Gentlemen:

We have acted as co-bond counsel in connection with the issuance by the Public Facilities Financing Authority of the City of San Diego (the "Authority") of \$250,000,000 aggregate principal amount of its Sewer Revenue Bonds, Series 1997A and Series 1997B (Payable Solely from Installment Payments Secured by Wastewater System Net Revenues) (collectively, the "Bonds"), issued pursuant to an Indenture, dated as of September 1, 1993 (the "Original Indenture"), between the Authority and State Street Bank and Trust Company of California, N.A., as trustee (the "Trustee"), as supplemented by the First Supplemental Indenture, dated as of May 1, 1994 (the "First Supplemental Indenture"), the Second Supplemental Indenture, dated as of December 1, 1995 (the "Second Supplemental Indenture"), and the Third Supplemental Indenture, dated as of February 1, 1997 (the "Third Supplemental Indenture," and together with the Original Indenture, the First Supplemental Indenture and the Second Supplemental Indenture, the "Indenture"), each between the Authority and the Trustee. The Bonds are payable from installment payments payable by the City of San Diego (the "City") to the Authority pursuant to a Master Installment Purchase Agreement, dated as of September 1, 1993 (the "Master Installment Purchase Agreement"), between the Authority and the City, as supplemented by the 1993-1 Supplement to the Master Installment Purchase Agreement, dated as of September 1, 1993 (the "1993-1 Supplement"), the 1995-1 Supplement to the Master Installment Purchase Agreement, dated as of December 1, 1995 (the "1995-1 Supplement"), and the 1997-1 Supplement to the Master Installment Purchase Agreement, dated as of February 1, 1997 (the "1997-1 Supplement," and together with the Master Installment Purchase Agreement,

Public Facilities Financing Authority
of the City of San Diego
City of San Diego
March 6, 1997

the 1993-1 Supplement and the 1995-1 Supplement, the "Installment Purchase Agreement"), each between the City and the Authority, under which the Authority sells to the City portions of a wastewater system. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture and the Installment Purchase Agreement.

In such connection, we have reviewed the Indenture, the Installment Purchase Agreement, the Tax Certificate, dated the date hereof (the "Tax Certificate"), certificates of the City, the Authority, the Trustee and others, opinions of the City Attorney with respect to the Authority and the City, and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

Certain agreements, requirements and procedures contained or referred to in the Indenture, the Installment Purchase Agreement, the Tax Certificate and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. No opinion is expressed herein as to any Bond or the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of counsel other than ourselves.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur. We disclaim any obligation to update this opinion. We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Authority and the City. We have not undertaken to verify independently, and have assumed, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in the opinions, referred to in the second paragraph hereof. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture, the Installment Purchase Agreement and the Tax Certificate, including without limitation covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Bonds, the Indenture, the Installment Purchase Agreement and the Tax Certificate may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting

Public Facilities Financing Authority
of the City of San Diego
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creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California. We express no opinion with respect to any indemnification, contribution, choice of law, choice of forum or waiver provisions contained in the foregoing documents. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement or other offering material related to the Bonds and express no opinion with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Bonds constitute the valid and binding limited obligations of the Authority.
2. The Bonds are special obligations of the Authority and are payable solely from Revenues (as such term is defined in the Indenture), which Revenues include Installment Payments pursuant to the Installment Purchase Agreement.
3. The Indenture and the Installment Purchase Agreement have been duly executed and delivered by, and constitute the valid and binding obligations of, the Authority. The Indenture creates a valid pledge, to secure the payment of the principal of and interest on the Bonds, of the Revenues and any other amounts (including proceeds of the sale of the Bonds) held by the Trustee in any fund or account established pursuant to the Indenture, except the Rebate Fund, subject to the provisions of the Indenture permitting the application thereof for other purposes and on the terms and conditions set forth therein.
4. The Installment Purchase Agreement has been duly executed and delivered by, and constitutes the valid and binding obligation of, the City. The Installment Purchase Agreement creates a valid pledge of Net System Revenues to secure the payment of Installment Payments to the Authority, on the terms and conditions set forth therein.
5. Interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from California personal income taxes. To the extent the initial offering price to the public (excluding bond houses and brokers) at which a substantial amount of the Bonds is sold is less than the amount payable at the maturity thereof, the difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. Original issue

Public Facilities Financing Authority
of the City of San Diego
City of San Diego
March 6, 1997

discount is treated as interest that is excluded from gross income for federal income tax purposes and is exempt from California personal income taxes to the extent properly allocable to each owner thereof. Interest (including original issue discount) on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although we observe that interest (including original issue discount) on the Bonds is included in adjusted current earnings when calculating corporate alternative minimum taxable income. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds.

Faithfully yours,

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

LOFTON, DE LANCIE & NELSON

Lofton, De Lancie & Nelson

per

Ken Kelly

0023

CITY OF SAN DIEGO WASTEWATER SYSTEM
RESPONSE TO THE STATE WATER RESOURCES CONTROL BOARD

Why Certificates of Participation ("COPS") instead of the Standard SRF Loan Contract?

The City's charter prohibits it from borrowing from the SWRCB using the standard SRF Loan Contract without voter approval. The City's charter (Section 99), however, allows the City to enter into contracts of purchase by ordinance adopted by a two-thirds majority vote of the City Council after holding a public hearing which has been duly noticed in the official City newspaper at least ten days in advance of such hearing. Ordinances adopted pursuant to this provision of the City's charter are subject to voter referendum (i.e. voters have the ability to bring the matter to a vote).

Accordingly, the City has proposed that the SWRCB purchase the COPS described below. The SWRCB is authorized to buy obligations of municipalities in addition to making loans under the standard SRF Loan Contract. The COPS represent the undivided interests in the obligation of the City to make payments from the City's Sewer Revenue Fund under an installment purchase contract (i.e. an obligation of a municipality).

The City respectfully requests the SWRCB to consider purchasing the COPS as described below.

What is the legal structure of the COPS transaction?¹

Step 1: Under the COPS structure, the Public Facilities Financing Authority of the City of San Diego (the "Authority"), a joint powers agency established by the City and its Redevelopment Agency to assist the City with its financings,² agrees to cause the Project to be constructed by the City (as agent for the Corporation). In consideration, the City agrees to purchase the Project from the Authority on an installment basis by making Installment Payments payable from the City's Sewer Revenue Fund to the Authority. (The document that obligates the City to make payments is an installment purchase agreement payable from the City's Sewer Revenue Fund, not a lease agreement.)

Step 2: The Authority assigns its right to receive the Installment Payments to a bank trustee (the "Trustee"). Accordingly, the Authority never actually receives the payments from the City. Instead, the City is required to make the payments directly to the Trustee. The SWRCB would have the right to select the Trustee. This step is taken concurrently with Step 1 and is in anticipation of Step 3.

Step 3: The Trustee delivers the COPS. The COPS represent an undivided interest in the Installment Payments payable from the City's Sewer Revenue Fund.

¹ If the SWRCB would prefer to purchase municipal obligations in the form of Bonds instead of COPS, the City is prepared to revise the documentation described above to provide for the purchase of Bonds. The Bonds would be issued by the Authority and would be payable from payments by the City from its Sewer Revenue Fund under an installment purchase contract. This is the same source of payment as with the COPS.

² While the Authority was established to assist the City with its financings, since the Authority appoints the City to be its agent to construct the project and since the Authority assigns all of its rights to payment by the City to the Trustee, the Authority will have no other rights or obligations in connection with the COPS. Accordingly, the SWRCB, as holder of the COPS, will only have to enforce remedies through the Trustee and will not have to deal with the Authority.

Step 4: The SWRCB will purchase the COPS. The purchase price for the COPS will be for the costs of the Project described in Step 1.

Step 5: As the City makes the Installment Payments to the Trustee (as described in Step 2), the Trustee makes payments to the SWRCB (as holder/owner of the COPS) as principal and interest on the COPS. The Trustee is required to act as a fiduciary to the SWRCB (as holder/owner of the COPS).

What is the security for the City's obligation to pay the Installment Payments?

Pursuant to the SWRCB's Resolution No. 97-028, the SWRCB resolved that, if certain conditions were met, the City's obligation to make Installment Payments from the City's Sewer Fund (from "Net System Revenues") in connection with the COPS would be subordinate to its obligation to make payments with respect to "Parity Obligations" under the Master Installment Purchase Agreement (described below) which are also payable from "Net System Revenues". Accordingly, the SWRCB's right to receive payments by the City from its Sewer Revenue Fund would be junior to the rights of the holders of "Parity Obligations." "Parity Obligations" include the publicly offered sewer revenue bonds that have been previously issued and any future debt that meets the requirements of the Master Installment Purchase Agreement. As a condition to allowing the subordination, the SWRCB required, among other things, that (1) the City maintain an "A" or higher rating on its Parity Obligations by at least two nationally known rating agencies, (2) the City maintain a coverage ratio of 1.1 times current year debt service on the subordinate COPS, and (3) the City pay the state match share (i.e. accept the 0% SRF Program). The City has agreed to these requirements and these requirements are contained in the current draft of the COPS documents.

Is the City willing to pass an ordinance that ensures automatic sewer rate increases for the next 23 years to cover operations, maintenance, replacement and debt service?

The City does not believe that Prop 218 would allow it to approve today unspecified rate increases for the next 23 years. Further, the City believes that passing an ordinance regarding rate increases in connection with the COPS would be duplicative due to the previous actions that it has taken with respect to this subject. The City previously adopted Ordinance No. O-17941 (subject to voter referendum) authorizing the execution of the Master Installment Purchase Agreement between the City and the Public Facilities Financing Authority of the City of San Diego and entered into the Master Installment Purchase Agreement in 1993. Under the Master Installment Purchase Agreement, the City is required to (1) maintain and preserve the Wastewater System in good repair and working order at all times, (2) operate the Wastewater System in an efficient manner and (3) pay all Maintenance and Operation Costs of the Wastewater System and they become due and payable (Section 6.07; Master Installment Purchase Agreement). In addition, the City is also required to fix and collect rates and charges for the Wastewater Service which will be at least sufficient to pay all Subordinate Obligations (this would include the COPS) and to yield during each fiscal year Net System Revenues equal to 120% of the Debt Service on Parity Obligations during such fiscal year (Section 6.08; Master Installment Purchase Agreement).

These requirements of the City (along with others) in the Master Installment Purchase Agreement secure the City's prior tax-exempt financings for the Wastewater System issued in 1993, 1995 and 1997 in a combined original principal amount of \$850,000,000. These requirements will be incorporated by reference in the COP documents for the SWRCB transaction and therefore the SWRCB will have the benefit of these City requirements. Therefore, if the City were to violate any of the above requirements, the City would be in default under its prior tax-exempt financings and

the COP documents. Any such default would have a disastrous effect on the City's overall ability to access the financial markets for future financings. Moreover, as noted above, the SWRCB would have the benefit of the additional rate covenant of 1.1 times coverage in the COPS documents which exceeds the requirement of 1.0 times coverage provided for Subordinate Obligations under the Master Installment Purchase Agreement COP documents.

Please see below regarding the remedies available to the SWRCB in the event of a default under the COP documents and describing how bond or COP insurance protects the SWRCB from any City default.

Is the City willing to purchase, with its own funds, insurance that guarantees repayments to the SWRCB should the City or the Corporation default on the COPS?

Yes. The City is willing to purchase insurance. In fact, each of the prior tax-exempt financings for the City's Wastewater System has had this insurance. With insurance, the City's obligations to make Installment Payments would be rated AAA, which is a higher rating than the current rating on either the City's general fund or its Sewer Revenue Fund. Please see below for a description of such insurance and the typical form of the insurance policies.

What does a COP insurance policy do? Do you have a copy of an existing policy?

General. A bond or COP insurance policy is an irrevocable guaranty of an insurer to make scheduled payments of principal and interest on a debt obligation (such as a bond or COP), in the event that the issuer of the obligation defaults. The policy provides assurance to a holder of the debt obligation (such as the SWRCB in the case of the COP) that repayments will be made in full and on time, even if the issuer is delinquent in making the payments or defaults on the obligation.

When an insurer provides a policy for a specific debt issue, it essentially shifts the risk of a default by the issuer from the obligation holder to the insurer. Since the policy is irrevocable, the insurer pledges to cover the principal and interest on the debt, regardless of the changes to the financial condition of the issuer. Attached hereto are copies of the specimen insurance policies of several bond and COP insurers.

An issuer purchases bond or COP insurance by paying an upfront, one time premium. The premium charged is typically expressed as a percentage of the total principal and interest payments for which coverage is provided. Based on conversations with the insurers, we believe that the range of premium that the City will pay is .20% to .35% (also stated as 20 to 35 basis points). This means that for every \$1 million borrowed from the SWRCB, at 0% interest, the premium would be \$2,000 to \$3,500.

Based upon conversations with senior professionals at the insurers, we are confident that a City obligation of the type being proposed to the SWRCB could be insured.

How does a Bond or COP Insurer Differ from a Property and Casualty Insurer?

The bond insurance business differs from the property and casualty business. In fact, bond insurers are completely different corporate entities from property and casualty insurers. Property and casualty insurers are called multiline companies, because they issue policies for a number of types of risks. These companies expect to pay a certain amount of claims on their policies and price their premiums accordingly.

Bond insurers differ from property and casualty insurers in two ways. First, bond insurers underwrite policies only on financial companies (thus they are called monoline companies). Second, bond insurers underwrite business to a "zero-loss" philosophy. This means that they only underwrite policies on municipal and corporate debt that they believe will *not* default. This latter approach gives the SWRCB comfort that the COP issued by the City have passed a thorough credit review by the bond insurer and are not expected to default in the first place.

Who are the Bond or COP Insurers?

There are four major insurance providers that dominate the market. They are Ambac Assurance Corporation; Financial Guaranty Insurance Corporation (FGIC); Financial Security Assurance, Inc. (FSA); and MBIA Insurance Corporation. The rating agencies rate all four insurers at AAA. The AAA rating is the highest possible rating available and is the same rating applied to Treasury securities issued by the U.S. government. If the City were to purchase insurance on its COP, they would carry the AAA rating of the insurer.

When a bond insurer issues an insurance policy, it actually risks its capital for the entire period that the insured obligation is outstanding. To assess the financial strength of a bond insurer, credit analysts examine the company's capital and its exposure relative to that capital base. The latter factor is called the leverage ratio. In the table below, we summarize the capital and leverage ratios of each of the top four insurers, as of June 30, 1997.

Major Bond Insurers - Selected Balance Sheet Statistics		
Insurer	Qualified Statutory Capital	Leverage Ratio
Ambac	\$1.548 billion	156:1
FGIC	\$1.654 billion	114:1
FSA	\$ 711 million	144:1
MBIA	\$2.553 billion	174:1

The claims experience of the insurers is actually quite low. For example, we understand that during its 23-year history and through June 30, 1997, MBIA (the largest among the four companies) issued 49,800 policies and *has had to set aside loss reserves on only 18 issues.*

Summary. A bond insurance policy is a means by which the SWRCB can gain comfort that its purchase of the City COPS is protected against default. The bond insurers have expressed interest in insuring the proposed debt obligation at a reasonable cost. These insurers are highly capitalized, AAA-rated corporations. If the SWRCB were to direct the City to acquire such insurance as a condition of approving the City's request, the obligation thus created and purchased by the SWRCB would carry the AAA rating and the irrevocable commitment that principal and interest payments will be made for the life of the obligation.

Have you informed the City Council that you are asking the SWRCB to buy the City's COP?

The City Council will be informed of and will be asked to expressly authorize all applicable financing documents, including all necessary agreements between the SWRCB and the City. As noted above, in order for the City to proceed with the COP financing, the City Council is required to adopt an ordinance (that is subject to voter referendum) by two-thirds vote after a noticed public hearing on the matter. Of course, copies of all such documents will be provided to the SWRCB and its staff.

What is the difference between the remedies upon default under the SWRCB's Standard SRF Loan Contract and the City's proposed COP documents?

Under the COP documents, failure of the City to make payments would create a default. In such a case, the SWRCB will have the power to require that the Trustee declare all of the outstanding principal and interest payable on the COPS to be due and payable immediately. If the City still fails to pay, the SWRCB has the power to require that the Trustee bring an action for mandamus or suit at law or in equity to require the City to pay. In the unlikely event that the Trustee did not bring action against the City, the SWRCB could bring its own action against the City 60 days after the SWRCB had made a written request to the Trustee to institute proceedings against the City and had offered the Trustee indemnity against the costs, expenses and liabilities incurred in compliance with such request.

The SRF Loan Contract requires that the agency adopt an ordinance or resolution designating a source of revenue for repayment of the SRF loan. (This requirement is also incorporated into the COP transaction since the Installment Payments are payable from the Sewer Revenue Fund.) In most cases, including the City's, this source of revenue would be the net revenues generated by the agency's wastewater system. Article 16 of Exhibit G of the SRF Loan Contract provides that if the agency fails to pay under the SRF Loan Contract or otherwise breaches the contract, the remedy available to the SWRCB is to terminate the SRF Loan Contract and to demand immediate repayment to the SWRCB of "an amount equal to the current balance due on the loan, and all penalty assessments due."

Accordingly, the only difference between the remedies upon default of the SRF Loan Contract where net revenues of the City's wastewater system would have been the source of repayment and the City's proposed COP structure is the Trustee's role in pursuing the SWRCB's remedies on behalf of the SWRCB. But again, in the unlikely event the Trustee didn't pursue remedies to the satisfaction of the SWRCB, the SWRCB has the power to bring its own action for remedies without the Trustee.

As a separate but related issue, Exhibit G to the SRF Loan Contract refers to the levy of taxes or assessments to pay amounts owed to the SWRCB under the SRF Loan Contract. Under the California Constitution, the ability of certain agencies, including the City, to pledge their taxing power to the repayment of debts is subject to voter approval. However, we note that the City's general obligation credit (which would be backed by its taxing power - if voter approved) is slightly lower than the AAA rating of the proposed provider of insurance.

How is the City's request for the SWRCB to purchase its COPS different from the situation involving the City and County of San Francisco?

Prior to the change in San Francisco's City Charter, the City and County of San Francisco had entered into a number of loan agreements with the SWRCB. These agreements were all executed using the SWRCB's standard SRF Loan Contract. When San Francisco approached the SWRCB, it was requesting consideration of a form of debt and loan documents different from those already executed many times. By contrast, San Diego has never entered into a loan agreement for SWRCB monies. The current request would establish the borrowing practice for San Diego with respect to the SWRCB.

As noted above, San Francisco's charter had previously permitted the wastewater system to borrow from the SWRCB in the traditional manner. Due to a drafting error, not an intentional revision, this authority was omitted from the charter when the San Francisco's voters amended it. In returning to the voters, San Francisco was simply requesting a reinstatement of a power that

never was intended to be removed. By contrast, San Diego's charter does not permit the City to borrow from the SRF by executing a traditional loan agreement unless it obtains voter approval. If San Diego were to ask the voters to amend the charter, it would effectively request something completely new and different.

Based upon the discussion at the October SWRCB Workshop, it is our understanding that the City and County of San Francisco never formally requested that the SWRCB consider an alternative security like the one proposed by San Diego. Moreover, San Francisco indicated that it was able to return to the voters. San Diego has been consistent in its desire to find an alternative security acceptable to the SWRCB and the City. Further, San Diego has never represented that it was able to return to the voters to change the charter.

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PROPOSITION C

Amend Article VII of the Charter of The City of San Diego by adding a new section thereto, to be numbered Section 90.2, which said section shall read as follows:

Section 90.2.

"City" means The City of San Diego.

"This section" as used in this section means this Section 90.2.

"Sewer" or "sewers" as used in this section means sanitary sewers of the City.

"Sewer system" as used in this section means the sanitary sewer system of the City for the collection, transmission, treatment and disposal of sewage and includes all parts thereof.

"Sewer service charges" as used in this section includes fees, tolls, rates and rentals for service by or the use of the sewer system or any part thereof, or in any manner derived from the sewer system or any part thereof.

"Revenues" as used in this section means all sewer service charges received for, and all income and receipts derived by the City from the operation of the sewer system or any part thereof or arising from the sewer system or any part thereof, including any sums received by the City from other cities, districts or public corporations (including the United States of America and the State of California) under contracts providing for the transmission, treatment or disposal of sewage from such other cities, districts or public corporations. "Revenues" shall not be construed to include taxes or assessments levied by the City.

"Sewer revenue fund" as used in this section means the fund derived from "revenues" as hereinbefore in this section defined.

(1) Revenue bonds to provide moneys for the purpose of acquiring, constructing, reconstructing, replacing, extending or improving sewers, sewer works and sewage treatment and disposal works, including all lands, easements and property necessary therefor and including facilities for the reclamation of water or other by-products of the sewerage system of the City may be issued as provided in this section. Any of the sewers or works or any part thereof may be located outside the City. Such revenue bonds shall not constitute an indebtedness of the City but shall constitute obligations which shall be payable, principal and interest and any premiums upon the redemption thereof prior to maturity only from the Sewer Revenue Fund; provided, however, that this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds issued to refund said revenue bonds or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable only from the fund from which the revenue bonds to be refunded are

to be payable. No restrictions or limitations upon or procedure for the issuance of bonds in other sections of this charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and no action or proceeding not required by this section shall be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the City or any other revenues of said City except such revenues as are required under the provisions of this section to be paid into the Sewer Revenue Fund.

(a) The limitations upon bonded indebtedness of The City of San Diego contained in Sections 76 and 90 of this charter or in any other section or provision thereof shall not apply to revenue bonds issued under any provisions of this charter where such revenue bonds are payable exclusively from a special fund derived from revenues obtained from any public utility or improvement of the City and are not payable from taxes levied by the City and such revenue bonds shall not be deemed indebtedness of the City within the meaning of the debt limitation provisions contained in sections 76 and 90 of this charter or in any other section thereof.

(2) The Council may issue revenue bonds payable from the Sewer Revenue Fund pursuant to and in the manner provided in this section after recommendation by the City Manager that bonds be issued hereunder, which recommendation shall state generally the purposes of the revenue bond issue and the principal amount thereof. Such recommendation need not be in any particular form.

(3) After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the City at an election held for that purpose the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and in the event such resolution is adopted no recommendation of the City Manager shall be required and the ordinance shall find the need for the issuance of revenue bonds under this section for the purposes stated in the resolution and the purposes stated in the question submitted to the qualified voters of the City shall be the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the

Council and at a meeting subsequent to that at which the resolution was adopted.

The ordinance calling the election shall:

- (a) state the purposes for which the bonds are proposed to be issued;
- (b) state the principal amount of the bonds;
- (c) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;
- (d) call the election and fix the election date;
- (e) fix the manner of holding the election;
- (f) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the City.

The question may be submitted at a special election called for that purpose or at any City election and any special election called for the purpose of voting upon a question of issuing bonds under this section may be consolidated with any election at which all of the qualified voters residing within the City are entitled to vote. Such consolidation may be made in any manner authorized under the Elections Code of the State of California or under the Elections Code of the City.

(4) The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the City, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the question of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.

No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the people of the City or the electors voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.

(5) The Council may issue all of such bonds in one issue or may divide the principal amount of any issue into two or more series and fix different dates of issuance and maturity for the bonds of each series. The Council may fix a date not more than five years from the date of issuance for the earliest maturity of each issue or series of bonds. Beginning with the date of the earliest maturity of each issue or series not less than one-fortieth of the indebtedness of such issue or series shall be paid every year; provided, however, the bonds of any issue or series may be made to mature and become payable in approximately equal total annual installments of interest and principal during the term of the bonds, computed from the first year in which any part of the principal shall mature to the date of final maturity. The deter-

mination of the Council as to what constitutes approximately equal total annual installments of interest and principal shall be final and conclusive.

Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, the principal amount of the bonds to be issued pursuant to such ordinance, the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually, the date of issue of said bonds, and the maturities thereof.

Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this section and of the validity of such bonds, and no bona fide purchaser of any such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision 1. REVENUE BONDS — TERMS AND CONDITIONS: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:

(a) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recitals of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates, and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;

(b) The terms and conditions under which said bonds or any part thereof may be paid and redeemed before maturity (including the premiums, if any, payable upon bonds redeemed prior to maturity), exchanged, registered, transferred, or negotiated;

(c) Covenants or provisions relating to rates (called in this section Sewer Service Charges). Such sewer service charges shall be fixed by the Council of said City and, with reasonable allowances for contingencies, must be at least sufficient, together with other revenues, if any, payable into the sewer revenue fund, to provide revenues sufficient to pay, as the same become due, principal and interest of all revenue bonds payable out of said sewer revenue fund (including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds) and all other obligations payable from

the sewer revenue fund, and the necessary expenses of maintaining and operating the sewer system of the City. The ordinance may also state the extent, if any, to which such sewer service may be furnished or rendered to the City or to the United States of America, the State of California, or to any city or other public corporation or body at lower rates than otherwise charged;

(d) The collection, deposit and safekeeping of the revenues; the permissible uses thereof; provided, however, that such revenue may be used only as authorized in this section and by any ordinance providing for the issuance of revenue bonds under this section. Nothing in this section shall restrict the Council in its discretion in any ordinance authorizing the issuance of revenue bonds under this section from providing for the payment of the expenses of maintenance and operation of the sewer system of the City prior to or subsequent to the payment of principal and interest of the revenue bonds or the setting aside in the bond service, sinking, redemption, reserve, or other fund, monthly or otherwise, of funds therefor;

(e) The special fund or funds to be established and maintained for the payment of principal and interest of the bonds, including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Sewer Revenue Fund may be paid from any such special fund set up therefor; the permissible investments of moneys in said funds, or any thereof; the accounts and records to be kept, audits thereof and examination thereof by bondholders and others;

(f) Carrying of insurance upon any sewers, sewage treatment plant or plants or sewage disposal works against any or all risks; and in case of loss the application of the insurance proceeds;

(g) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the sewer system of the City or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of said ordinance;

(h) Limitations upon the issuance of any additional bonds payable from the Sewer Revenue Fund, but no bond shall be issued pursuant to this section or under any other provision of this charter or any other law having any priority in payment of principal or interest out of such fund over any revenue bonds theretofore or thereafter issued and payable out of said fund;

(i) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of provisions of any ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof, or to a refunding of said bonds and to calls or exchanges in connection with such refunding;

(j) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;

(k) Any other provision (including covenant) valid under the Constitution

of the State of California and the United States of America.

Such ordinance shall be subject to referendum in the manner that other ordinances of the City are subject to referendum.

Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any applicable legal action, suit, proceeding or other remedy.

Subdivision 2. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:

(a) No bond shall run more than forty years from the date of issuance thereof;

(b) Said bonds shall be designated "Sewer Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of the City but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof only from the Sewer Revenue Fund, but this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds or the payment thereof from premium and accrued interest received upon the sale of the bonds;

(c) Said bonds shall be sold only at public sale following such notice as the Council by resolution or order may prescribe; provided, however, that if no bid or no satisfactory bid is received pursuant to such notice the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subsection shall not apply to the exchange of any refunding bonds for outstanding bonds. Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate on any of the bonds shall exceed the maximum rate stated in the ordinance calling the election to vote upon the issuance of said bonds. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on the bonds sold;

(d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. The proceeds from the sale (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for issuance of such bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Sewer Revenue Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such Sewer Revenue Fund after the issuance of the bonds has been approved at the election thereon; (2) that said proceeds may be used

for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of said bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

(6) Refunding revenue bonds may be issued for the payment or redemption of any revenue bonds issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of accrued interest and of any premiums thereon and all expenses of such refunding. Refunding revenue bonds shall be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder. The ordinance providing for the issuance of refunding bonds shall be subject to referendum in the same manner as other ordinances of the City.

(7) To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.

The Council is authorized to take any and all steps necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

(8) The Council may at any time establish and collect sewer service charges and must establish and collect such sewer service charges as required by any ordinance providing for the issuance of revenue bonds under this section. Sewer service charges shall not be deemed taxes or assessments within the meaning of any section of this charter and shall not be enforceable by any lien upon real property. "Sewer service charges" may be collected with water rates, fees or charges (herein called "water rates") of The City of San Diego. The Council may provide and covenant that the sewer service charges shall be collected with and not separately from the water rates of said City and that all charges shall be billed upon the same bill and collected as one item and may also provide and covenant that in the event of non-payment of any part of the bill for the sewer service charge and water rate,

the water service shall be shut off within such time as may be or shall have been prescribed by the Council. Delinquent sewer service charges may be collected by suit in any court of competent jurisdiction. The Council also may prescribe and establish penalties for the nonpayment of sewer service charges. The Council may take any and all steps to provide, establish and collect sewer service charges.

All "revenues" shall be paid into the Sewer Revenue Fund and shall be used only for the following purposes: (1) paying the cost of maintenance and operation of the sewer system of The City of San Diego; (2) paying principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon redemption, of sewer revenue bonds issued under this section and payable from said Sewer Revenue Fund; (3) paying all or any part of the cost and expense of extending, reconstructing or improving the sewer system of the City or any part thereof.

Any ordinance providing for the issuance of revenue bonds hereunder may contain covenants defining, limiting or restricting the use of moneys in said Sewer Revenue Fund and said covenants shall control so long as any bonds issued under said ordinance are outstanding and unpaid within the meaning of this section.

Moneys derived from sewer service charges and in the Treasury of The City of San Diego unincumbered at the time revenue bonds are first issued under the provisions of this section shall thereafter be used only for purposes permitted under this section. Interest on investments of any fund created by or under the authority of this section shall be credited to any such fund.

(9) Nothing in this section shall be deemed to restrict or prevent the City from issuing general obligation bonds for sewer purposes. General obligation bonds of the City may also be issued to refund any revenue bonds, principal, interest and premium, if any, issued under this section, if authorized by a two-thirds vote of the qualified electors of the City voting upon the question of the issuance thereof at an election called and held for that purpose. Such election may be called by ordinance in the same manner as any other special election is called under the charter of the City.

Nothing in this section shall be construed to prevent or restrict the City from expending funds derived from taxes for the maintenance and operation of sewers or the construction of sewers, but no funds derived from taxes shall be used for the payment of principal or interest of any revenue bonds issued under this section and no funds derived from taxes shall be considered "revenues" as in this section defined and no such funds derived from taxes shall be paid into the Sewer Revenue Fund.

Nothing in this section shall be construed to prevent or restrict the City from levying special assessments for the acquisition and construction of sewers or sewer works and such assessments shall not be construed as "revenues" as defined in this section and shall not be paid into the Sewer Revenue Fund.

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Nothing in this section shall be construed as implying any doubt of the power of the City to establish sewer service charges prior to adoption of this amendment.

(THIS PROPOSITION WILL APPEAR ON THE BALLOT IN THE FOLLOWING FORM)

<p>PROPOSITION C. Amend Article VII of the Charter of The City of San Diego by adding a new section thereto to be numbered Section 90.2. This amendment authorizes the City to issue revenue bonds payable from revenue derived from sewer service charges for the purpose of financing additions to and improvements of the sewers, sewer works, and sewage treatment and disposal works (including facilities for the reclamation of water or other by-products) of the City, upon a majority vote of the voters; provides a procedure for the issuance and sale of such bonds, and provides for the use of revenues derived from sewer service charges.</p>	YES	
	NO	

PROPOSITION D

Amend Section 24 of Article IV of the Charter of The City of San Diego to read as follows:

"Section 24. MAYOR. The Mayor shall preside at the meetings of the Council and perform such other duties as may be prescribed by this Charter or as may be imposed by the Council, consistent with the duties of his office. He shall have no power of veto, but shall have a vote as a member of the Council. He shall be recognized as the official head of the City for all ceremonial purposes, by the Courts for the purpose of serving civil process, for the signing of all legal instruments and documents, and by the Governor for military purposes. In time of public danger or emergency, he may, with the consent of the Council, take command of the police, maintain order and enforce the law.

The rate of pay of the Mayor shall be Twelve Thousand Dollars (\$12,000.00) per year.

In the event of a vacancy occurring in the office of the Mayor, existing by reason of any cause, the Council shall have authority to fill such vacancy, provided, however, that if the Council shall fail to fill such vacancy by appointment within thirty (30) days after the vacancy, the Council must immediately cause an election to be held to fill such vacancy. Any person appointed

to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term."

(THIS PROPOSITION WILL APPEAR ON THE BALLOT IN THE FOLLOWING FORM)

<p>PROPOSITION D. Amend Section 24 of Article IV of the Charter of The City of San Diego. This amendment removes the provision in the present Charter that the Mayor shall receive each year a sum not to exceed \$1500.00 for entertainment purposes, and fixes the rate of pay of the Mayor at \$12,000.00 a year.</p>	YES	31
	NO	32

passed

PROPOSITION E

Amend Section 12 of Article III of the Charter of The City of San Diego to read as follows:

"Section 12. THE COUNCIL. The Council shall be composed of seven (7) Councilmen, including the Mayor, and shall be the legislative body of the City, each of the members of which, including the Mayor, shall have the right to vote upon all questions before it.

Councilmen, including the Mayor, shall be elected at a general municipal election held in the odd numbered years and, except as hereinafter provided, shall hold office for the term of four years from and after the first Monday after the first day of May next succeeding their election and until their successors are elected and qualified.

Any vacancy occurring in the Council shall be filled from the District in which the vacancy occurs by appointment by the remaining Councilmen; but in the event that said remaining Councilmen fail to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, they must immediately cause an election to be held to fill such vacancy; provided, however, that any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

In case a member of the Council is absent from the City for a period of forty (40) days, unless by permission of the Council, his office shall be declared vacant by the Council and the same filled as in the case of other vacancies.

The rate of pay of each Councilman shall be Five Thousand Dollars (\$5,000.00) a year.

No Councilman shall be eligible during the term for which he was appointed or elected to hold any other office or employment with the City

Amend Section 90.2 of Article VII of the Charter of The City of San Diego to read as follows:

"Section 90.2.

Unless the context otherwise requires, the definitions contained in this section shall govern the construction thereof.

"This section" as used in this section means this Section 90.2.

"City" means The City of San Diego.

"Council" means the Council of The City of San Diego.

"Bond" or "bonds" means sewer revenue bonds issued hereunder payable from the Sewer Revenue Fund.

"Sewer" or "sewers" as used in this section means sanitary sewers of the City.

"Sewer system" as used in this section means all sanitary sewers, sewer works, sewage treatment and disposal works and facilities of the city for the collection, transmission, treatment or disposal of sewage and comprises the entire system of sewers and sewer works and facilities of the city and includes all parts thereof, whether physically connected to other parts of the system or otherwise, and shall include all additions thereto, whether physically connected to other parts of the system or otherwise, and all extensions and improvements of the sewer system or any part thereof. Nothing herein shall preclude the construction of facilities for the reclamation of water from sewage in the sewer system and the city may at any time determine whether such facilities or any portion thereof shall be constructed and operated as a part of the sewer system or as a part of the water system, or otherwise.

"Sewer service charges" as used in this section means charges, fees, tolls, rates and rentals established or imposed by the city for service by or for the use of the sewer system or any part thereof.

"Revenues" as used in this section means all sewer service charges received, and any sums received by the city from other cities, districts or public corporations (including the United States of America and the State of California) under contracts providing for the transmission, treatment or disposal of sewage from such other cities, districts or public corporations through or by means of the sewer system or any part thereof, and all other income and revenue derived by the city from the operation of the "sewer system" or any part thereof. "Revenues" shall not be construed to include taxes or assessments levied by the city.

"Sewer Revenue Fund" as used in this section means the Sewer Revenue Fund heretofore established into which revenues from the sewer system have been paid and said Fund has been, is and shall be derived from "revenues."

Subsection 1. Revenue bonds to provide money for the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewers, sewer works, sewage treatment plants, works and facilities, and sewage disposal works or facilities which will be additions to, extensions and improvements of the sewer system, and for the reconstruction or replacement

of parts of the sewer system, including all necessary equipment, appurtenances and appurtenant work and the acquisition of all lands, easements and property necessary therefor and for facilities for the reclamation of water from sewage in the sewer system (if such reclamation facilities are to be constructed and operated as a part of the sewer system) may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said purposes. To any extent necessary or convenient, any of the sewers, plants, works or facilities or any part thereof may be located outside the city.

Subdivision A. Revenue bonds issued under this section shall not constitute an indebtedness of the city but shall constitute obligations which shall be payable, principal and interest, and any premiums upon the redemption thereof prior to maturity, only from the Sewer Revenue Fund; provided, however, that this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds issued to refund said revenue bonds, or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon, or the payment out of the proceeds of any bonds of the whole or a part of the interest accruing on said bonds during the period of acquisition and construction of the work to be paid for out of such proceeds and for the first six months thereafter.

Subdivision B. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable from the Sewer Revenue Fund. No restriction or limitations upon or procedure for the issuance of bonds in other sections of this charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and any action or proceeding not required by this section shall not be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city or any other revenues of said city except such revenues as are required under the provisions of this section to be paid into the Sewer Revenue Fund.

Subdivision C. The limitations upon bonded indebtedness of The City of San Diego contained in Sections 76 and 90 of this charter or in any other section or provision thereof shall not apply to revenue bonds issued under this section or under any provisions of this charter or under any general law of the State of California where such revenue bonds are payable exclusively from a special fund derived from revenues obtained from any public utility or improvement of the city and are not payable from taxes levied by the city and such revenue bonds shall not be deemed indebtedness of the city within the meaning of the debt limitation provisions contained in Sections 76 and 90 of this charter or in any other section thereof.

Subsection 2. To provide money for the purpose of the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewer, sewer works, sewage treatment plant, works and facilities, sewage disposal works and facilities and submarine ocean outfall sewer, which will be additions to, extensions and improvements of the sewer system, including for

ATTACHMENT E

and including the acquisition of all lands, easements and property necessary therefor, and including reconstruction or replacement of parts of sewers and reconstruction of sewer facilities necessary for any of the foregoing, the Council is hereby authorized to issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds in total principal amount not to exceed \$42,500,000. The maximum rate of interest on said bonds shall not exceed six per cent per annum, payable semiannually. Revenue bonds, if any, issued under this section in excess of said sum of \$42,500,000 shall be authorized by proceedings taken in the manner hereinafter provided under Subsection 3.

Subsection 3. Except as provided in Subsection 2 above and except refunding sewer revenue bonds, revenue bonds payable from the Sewer Revenue Fund shall be authorized in the manner provided in this Subsection 3.

The first step in the proceedings shall be a recommendation by the City Manager that bonds be issued hereunder, which recommendation shall state generally the purposes of the revenue bond issue and the principal amount thereof. Such recommendation need not be in any particular form. After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the city at an election held for that purpose the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and in the event such resolution is adopted the recommendation of the City Manager shall not be required and the ordinance shall find the need for the issuance of revenue bonds under this section for the purposes stated in the resolution and the purposes stated in the proposition submitted to the qualified voters of the city shall be the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.

Subdivision A. The ordinance calling the election also shall:

- (1) state the purposes for which the bonds are proposed to be issued;
- (2) state the principal amount of the bonds;
- (3) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;
- (4) call the election and fix the election date;
- (5) fix the manner of holding the election;
- (6) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the city.

Subdivision B. The proposition shall be submitted at a special election called for that purpose and any special election called for the purpose of voting upon a proposition to issue bonds under this section may be consolidated with any city or other election at which all of the qualified voters residing within the city are entitled to vote. Such consolidation may be made in the manner authorized under the Elections Code of the State of California or under the Elections Code of the city.

Subdivision C. The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the city, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.

No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the people of the city or the electors voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.

Subsection 4. The Council may issue all bonds authorized at an election in one issue or in two or more series and may fix different dates and maturities for the bonds of each series. It may issue all bonds authorized by Subsection 2 hereof in one issue or in two or more issues or series and may fix different dates and maturities for the bonds of each issue or series. The bonds of any issue or series issued under this section may be serial bonds or term bonds or any combination thereof with such maturities as may be determined by the Council, but no bond shall run more than forty (40) years from its date.

Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, fix the principal amount of the bonds to be issued pursuant to such ordinance, the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually, the date of said bonds, and the maturities thereof.

Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this section and of the validity of such bonds, and no bona fide purchaser of any such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision A. REVENUE BONDS—TERMS AND CONDITIONS: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including

covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:

(1) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recitals of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates, and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;

(2) The terms and conditions under which said bonds or any part thereof may be paid and redeemed before maturity (including the premiums, if any, payable upon bonds redeemed prior to maturity), exchanged, registered, transferred, or negotiated;

(3) Covenants or provisions relating to rates (called in this section Sewer Service Charges). Such sewer service charges shall be fixed by the Council of said city and, with reasonable allowances for contingencies, must be at least sufficient, together with other revenues, if any, payable into the Sewer Revenue Fund, to provide revenues sufficient to pay, as the same become due, principal and interest of all revenue bonds payable out of said Sewer Revenue Fund (including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds) and all other obligations payable from the Sewer Revenue Fund, and the necessary expenses of maintaining and operating the "sewer system." The ordinance may also state the extent, if any, to which such sewer service may be furnished or rendered to the city free or to the United States of America, the State of California, or to any city or other public corporation or body at lower rates than otherwise charged;

(4) The collection, deposit and safekeeping of the revenues and the permissible uses thereof; provided, however, that the cost of maintenance and operation of the sewer system (and only such cost) shall be payable from the Sewer Revenue Fund prior to the payment of principal and interest of the revenue bonds or the setting aside in the bond service, sinking, redemption, reserve, or other fund, monthly or otherwise, of funds therefor;

(5) The special fund or funds to be established and maintained for the payment of principal and interest of the bonds; including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Sewer Revenue Fund may be paid from any such special fund set up therefor; the permissible investments of moneys in said funds, or any thereof; the accounts and records to be kept, audits thereof and examination thereof by bondholders and others;

(6) Carrying of insurance upon any sewers, sewage treatment plant or plants or sewage disposal works against any or all risks, and in case of loss the application of the insurance proceeds;

(7) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the sewer system or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer per-

mitted under the terms of said ordinance;

(8) Limitations upon the issuance of any additional bonds payable from the Sewer Revenue Fund, but no bond shall be issued pursuant to this section or under any other provision of this charter or any other law having any priority in payment of principal or interest out of such fund or out of any revenues payable into such fund over any revenue bonds theretofore issued and payable out of said fund;

(9) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of provisions of any ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof, or to a refunding of said bonds and to calls or exchanges in connection with such refunding;

(10) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;

(11) Any other provision (including covenant) valid under the Constitution of the State of California and the United States of America.

Such ordinance shall be subject to referendum in the manner that other ordinances of the City are subject to referendum.

Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any applicable legal action, suit, proceeding or other remedy.

Subsection 5. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:

(a) No bond shall run more than forty years from its date;

(b) Said bonds shall be designated "Sewer Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of the City but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof only from the Sewer Revenue Fund. Such statement shall not preclude the payment or redemption thereof from the funds or moneys specified in Subdivision A of Subsection 1;

(c) Said bonds shall be sold only at public sale following such notice as the Council by resolution or order may prescribe; provided, however, that if no bid or no satisfactory bid is received pursuant to such notice the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subsection shall not apply to the exchange of any refunding bonds for outstanding bonds. Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed the maximum rate stated in the ordinance calling the election to vote upon the issuance of said bonds or as to bonds authorized by Subsection 2 hereof the maximum rate stated in said Subsection 2. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or

order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on the bonds sold;

(d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. The proceeds from the sale (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for issuance of such bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Sewer Revenue Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such Sewer Revenue Fund after the issuance of the bonds has been authorized by the voters or as to bonds authorized by Subsection 2 hereof, after the date this amendment becomes effective; (2) that said proceeds may be used for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of said bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

Subsection 6. Refunding revenue bonds payable from the Sewer Revenue Fund may be issued for the payment or redemption of any revenue bonds issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of interest to maturity on any noncallable bonds to be refunded and of accrued interest to date of redemption and of any premiums payable upon redemption of bonds which by their terms are subject to call and redemption prior to maturity, and all expenses of such refunding. Refunding revenue bonds may be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder and the first step in the proceedings shall be the ordinance of issuance. The ordinance providing for the issuance of refunding bonds shall be subject to referendum in the same manner as other ordinances of the city.

Subsection 7. To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption

fund, or other fund and created to insure the payment or redemption thereof.

The Council is authorized to take any and all steps necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

Subsection 8.

Subdivision A. The Council may at any time establish and provide for the collection of sewer service charges and must establish and provide for the collection of such sewer service charges as are required by any ordinance providing for the issuance of revenue bonds under this section. Sewer service charges shall not be deemed taxes or assessments within the meaning of any section of this charter and shall not be enforceable by any lien upon real property. "Sewer service charges" may be collected with water rates, fees or charges (herein called "water rates") of The City of San Diego. The Council may provide and covenant that where the city furnishes water to the property receiving sewer service the sewer service charges shall be collected with and not separately from the water rates of said city and that all charges shall be billed upon the same bill and collected as one item and may also provide and covenant that in the event of nonpayment of any part of the bill for the sewer service charge and water rate, the water service shall be shut off within such time as may be or shall have been prescribed by the Council. Delinquent sewer service charges may be collected by suit in any court of competent jurisdiction. The Council may provide additional methods of collecting sewer service charges. The Council also may prescribe and establish penalties for the nonpayment of sewer service charges. The Council may take any and all steps to establish and provide for the collection of sewer service charges.

Subdivision B. All revenues shall be paid into the Sewer Revenue Fund and shall be used only for the following purposes: (1) paying the cost of maintenance and operation of the sewer system; (2) paying principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon redemption of sewer revenue bonds issued under this section and payable from said Sewer Revenue Fund; (3) paying all or any part of the cost and expense of extending, reconstructing or improving the sewer system or any part thereof or making additions to such system; (4) transferring from any surplus in the Sewer Revenue Fund to the Capital Outlays Fund, at one time or from time to time, all or any part of the sums expended from said Capital Outlays Fund after July 1, 1960, for any purpose for which revenue bonds may be issued under this section; (5) paying from any surplus in the Sewer Revenue Fund principal or interest or both, or any part thereof, of general obligation bonds heretofore or hereafter issued for any purpose for which revenue bonds may be issued under this section.

Any ordinance providing for the issuance of revenue bonds hereunder may contain covenants defining, limiting or restricting the use of moneys in said Sewer Revenue Fund and said covenants shall control so long as any bonds issued under said ordinance are outstanding and unpaid within the meaning of this section.

Subdivision C. Interest (including interest on investments) on the Sewer Revenue Fund or on any fund created by or under the authority of this section

shall be credited to the particular fund.

Subsection 9.

Subdivision A. The City may issue general obligation bonds for sewer purposes. General obligation bonds of the city may also be issued to refund any revenue bonds, principal, interest and premium, if any, issued under this section, if authorized by a two-thirds vote of the qualified electors of the city voting upon the question of the issuance thereof at an election called and held for that purpose. Such election may be called by ordinance in the same manner as any other special election is called under the charter of the city.

The city may expend funds derived from taxes for the acquisition and construction of sewers, and to the extent that may legally be done under this section may expend funds derived from taxes for the maintenance and operation of sewers, but no funds derived from taxes shall be considered revenues as in this section defined and no such funds derived from taxes shall be paid into the Sewer Revenue Fund and no revenue bond issued under this section or any interest thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city.

Subdivision B. The city may levy special assessments for the acquisition and construction of sewers or sewer works and such assessments shall not be construed as "revenues" as defined in this section and shall not be paid into the Sewer Revenue Fund.

Nothing in this section shall be construed to restrict the power of the city to consent to the formation or organization of special districts for the purpose of collection, transmission, treatment or disposal of sewage within portions of the city which are not at that time served by the city sewer system and which in the opinion of the Council cannot conveniently be served by or through the city sewer system. Before any such district is formed or organized which includes territory of the city therein the consent of the city to the inclusion therein of such territory shall be manifested by ordinance of the Council. The Council shall have authority to provide reasonable terms and conditions under which the portion of the city may be included in said district and upon which the district may operate its facilities within The City of San Diego.

Nothing in this section shall be construed as implying any doubt of the power of the city to establish and collect service charges for service by or for the use of sewers under its general charter powers.

Subsection 10. This section and every part thereof shall be liberally construed to promote the objects thereof and to carry out its intents and purposes.

If the application of any subsection, subdivision, paragraph, sentence, clause or word of this section to any person or circumstance is held invalid the application of such subsection, subdivision, paragraph, sentence, clause or word to any other person or in any other circumstance shall not be affected thereby. If any part of this section is held invalid the remainder of the section shall remain in full force and effect.

The proposal for the foregoing amendment to said Charter will appear upon the ballot for said special municipal election (consolidated with the statewide general election) to be held in said City in substantially the following form:

<p>PROPOSITION A. CITY OF SAN DIEGO CHARTER AMENDMENT. Amends Section 90.2 of Article VII of the Charter of The City of San Diego.</p> <p>This amendment revises said Section 90.2 providing for the establishment and collection of sewer service charges, defining sewer revenues, the Sewer Revenue Fund into which sewer revenues are paid, the uses of said fund, and providing for the issuance of sewer revenue bonds payable from said fund, and makes changes therein and additions thereto; revises purposes for which sewer revenue bonds may be issued; provides more flexibility in bond maturities; authorizes the Council to issue not to exceed \$42,500,000 of sewer revenue bonds payable from the Sewer Revenue Fund for the purposes stated in Subsection 2 of the amendment; and authorizes additional sewer revenue bonds payable from said fund to be issued when authorized by a majority vote of the qualified voters voting on the proposition of issuing such additional bonds.</p>	<p>YES</p>
	<p>NO</p>

The proposed amendment, as hereinbefore set forth, is mailed to the qualified electors of said City by order of the Council thereof and in accordance with Section 8 of Article XI of the Constitution of the State of California.

PHILLIP ACKER
City Clerk of the City of
San Diego, California

0038

ARGUMENT FOR PROPOSITION A

A "YES" vote for the city sewer revenue bonds is vital. It will:

1. Eliminate the contamination of San Diego Bay, preserve and restore its recreational, shipping and Naval use
2. Meet Greater San Diego area sewerage needs for 40 years
3. Comply with public health and sanitation requirements
4. Provide major employment; \$30,000,000 payroll over a two year period

A revenue bond issue does not represent any additional taxes but will be paid for completely by the existing sewer service charge.

More than one-third of its cost will be paid by other cities and agencies in the metropolitan area.

The metropolitan area sewerage system is urgent. It will remove the existing contamination of San Diego Bay.

The system will meet the San Diego area's population growth for 40 years.

Plans for the treatment plant and ocean outfall have been reviewed and approved by the Regional Water Pollution Control Board and a Technical Advisory Committee including representatives of Scripps Institute of Oceanography and California Institute of Technology.

Financial plans for retiring the bonds through the sewer service charge have been reviewed and approved by the city's bond attorneys, O'Melveny & Myers, and the city's financial consultants, Blyth & Co.

The city's existing treatment plant is hopelessly inadequate. At peak periods millions of gallons of raw sewage must be bypassed and dumped directly into San Diego Bay. Overloaded lines have already required the construction of temporary oxidation ponds.

Engineers say construction will create more than 10,000,000 man-hours of labor, 5300 man-years of work, over the next two years; coming at a time when San Diego residents need work.

The present sewer service charge is already paying the cost of the system's construction and complete retirement of the revenue bond issue.

VOTE YES FOR SEWER REVENUE BONDS.

Fred C. Stalder, Chairman
Citizens Committee, Support
For Sewers

Roscoe E. Hazard, Finance Chairman
San Diego County Committee For Water

John Quimby, Secretary-Treasurer
County Central Labor Council
(AFL-CIO)

D. R. Grable, President
San Diego Taxpayers Association

ARGUMENT AGAINST PROPOSITION A

No argument against this proposition was filed in the Office of the City Clerk.

**PROPOSITION B
(THIS PROPOSITION WILL APPEAR ON THE
BALLOT IN THE FOLLOWING FORM)**

PROPOSITION B. CITY OF SAN DIEGO CHARTER AMENDMENT. Amends Section 144 of Article IX of the Charter of The City of San Diego. This amendment revises said Section 144 establishing a Board of Administration of the City Employees' Retirement System and the powers thereof by providing more flexibility in the types or classes of investments and securities in which the said Board of Administration may invest the Retirement Fund and establishes conditions or limitations for certain classes or types of investments.	YES	
	NO	

This proposed amendment amends Section 144 of the City Charter by deleting certain provisions thereof and by the addition of new provisions. The portions to be deleted are printed in ~~STRIKE-OUT-TYPE~~ and the portions to be added are underlined.

Section 144. BOARD OF ADMINISTRATION.

The system shall be managed by a Board of Administration which is hereby created, consisting of the City Manager, City Auditor and Comptroller, the City Treasurer, three members of the Retirement system, to be elected from the active membership, a resident official of a life insurance company, an officer of a local bank and a citizen of the City, the latter three to be appointed by the Council. Such appointees shall serve without compensation. Members of the Board, other than ex-officio, shall serve six years or until their successors are elected and qualified, and shall so classify themselves by lot that one term shall expire each year. The members of the existing Board shall serve out their unexpired terms.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund or funds as may be established; provided, however, that such board shall not be permitted to invest in any bonds or securities which are not authorized by General Law for savings banks, and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or